

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PACIFIC INDEMNITY COMPANY,

Plaintiff,

-v-

KITON CORPORATION,

Defendant.

20 Civ. 8667 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On December 29, 2020, defendant filed a motion to dismiss the complaint under Rule 12 of the Federal Rules of Civil Procedure. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, taking the upcoming holiday into account, it is hereby ORDERED that plaintiff shall file any amended complaint by January 25, 2021. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by February 15, 2021, defendant shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹

It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by January 25, 2021. Defendant's reply, if any, shall be served by February 8, 2021. At the time any reply is served, the moving party shall supply the Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

¹ If defendant files a new motion to dismiss or rely on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendant's reply, if any, will be due seven days after that.

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: December 30, 2020
New York, New York